



## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 635

[Docket No. 220-711-0152; RTID 0648-XB986]

#### Atlantic Highly Migratory Species; Adjustments to 2022 North and South Atlantic Swordfish Quotas

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Temporary final rule.

**SUMMARY:** NMFS adjusts the 2022 baseline quotas for U.S. North and South Atlantic swordfish based on available underharvest of the 2021 adjusted U.S. quotas. This action is necessary to implement binding recommendations of the International Commission for the Conservation of Atlantic Tunas (ICCAT), as required by the Atlantic Tunas Convention Act (ATCA), and to achieve domestic management objectives under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). This action to adjust the quotas is only temporary and will be effective through December 31, 2022. On January 1, 2023, the unadjusted annual baseline allocations of North and South Atlantic swordfish will renew and be available to harvest consistent with HMS regulations.

**DATES:** Effective [*insert date 30 days after date of publication in the FEDERAL REGISTER*], through December 31, 2022.

**ADDRESSES:** Supporting documents, including environmental assessments and environmental impact statements, as well as the 2006 Consolidated Atlantic Highly Migratory Species (HMS) Fishery Management Plan (FMP) and its amendments may be downloaded from NOAA Fisheries' HMS Division website at

<https://www.fisheries.noaa.gov/topic/atlantic-highly-migratory-species>. These documents also are available upon request from Erianna Hammond or Steve Durkee at the email addresses and telephone number below.

**FOR FURTHER INFORMATION CONTACT:** Erianna Hammond

([erianna.hammond@noaa.gov](mailto:erianna.hammond@noaa.gov)) or Steve Durkee ([steve.durkee@noaa.gov](mailto:steve.durkee@noaa.gov)) at 301-427-8503.

**SUPPLEMENTARY INFORMATION:** Atlantic HMS fisheries, including swordfish fisheries, are managed under the authority of ATCA (16 U.S.C. 971 *et seq.*) and the Magnuson-Stevens Act (16 U.S.C. 1801 *et seq.*). The 2006 Consolidated HMS FMP and its amendments are implemented by regulations at 50 CFR part 635. Section 635.27(c) implements the ICCAT-recommended quotas and describes the quota adjustment process for both North and South Atlantic swordfish. NMFS is required under the Magnuson-Stevens Act to provide U.S. fishing vessels with a reasonable opportunity to harvest quotas under relevant international fishery agreements such as the ICCAT Convention, which is implemented domestically pursuant to ATCA.

#### **North Atlantic Swordfish Annual Quota and Adjustment Process**

Consistent with the North Atlantic swordfish quota regulations at § 635.27(c), NMFS adjusts the U.S. annual North Atlantic swordfish quota for allowable underharvest, if any, in the previous year. NMFS makes such adjustments consistent with ICCAT limits and when catch information for the prior year is available. Under ICCAT Recommendation 16-03, as amended by Recommendation 21-02, the U.S. North Atlantic swordfish baseline annual quota for 2018 through 2022 is 2,937.6 metric tons (mt) dressed weight (dw) (3,907 mt whole weight (ww)). The maximum underharvest that the United States may carry forward from one year to the next is 15 percent of the baseline quota, which equals 440.6 mt dw (586 mt ww) for the United States. In 2021, the

adjusted North Atlantic swordfish quota was 3,378.2 mt dw (2,937.6 mt dw baseline quota + 440.6 mt dw carried over from 2020).

Preliminary total 2021 U.S. North Atlantic swordfish catch, which includes landings and dead discards, was 961.8 mt dw, which is an underharvest of 2,416.4 mt dw of the 2021 adjusted quota. This underharvest exceeds the 440.6-mt dw underharvest carryover limit allowed under Recommendation 21-02. Thus, NMFS is carrying forward 440.6 mt dw, the maximum carryover allowed. The 2,937.6-mt dw baseline quota is increased by the underharvest carryover of 440.6 mt dw, resulting in a final adjusted North Atlantic swordfish quota for the 2022 fishing year of 3,378.2 mt dw ( $2,937.6 + 440.6 = 3,378.2$  mt dw). From that adjusted quota, 50 mt dw will be allocated to the Reserve category for inseason adjustments and research, and 300 mt dw will be allocated to the Incidental category, which covers recreational landings and landings by incidental swordfish permit holders, in accordance with regulations at § 635.27(c)(1)(i). This results in an allocation of 3,028.2 mt dw ( $3,378.2 - 50 - 300 = 3,028.2$  mt dw) for the directed category, split equally between two seasons in 2022 (January through June, and July through December) (Table 1).

### **South Atlantic Swordfish Annual Quota and Adjustment Process**

Consistent with the South Atlantic swordfish quota regulations at § 635.27(c), NMFS adjusts the U.S. annual South Atlantic swordfish quota for allowable underharvest, if any, in the previous year. NMFS makes such adjustments consistent with ICCAT limits when catch information for the prior year is available. Under ICCAT Recommendation 17-03 as amended by Recommendation 21-03, the U.S. South Atlantic swordfish baseline annual quota for 2018 through 2022 is 75.2 mt dw (100 mt ww) and the amount of underharvest that the United States can carry forward from one year to the next is 100 percent of the baseline quota (75.2 mt dw). Under Recommendations 17-03 and 21-03, the United States continues to transfer a total of 75.2 mt dw (100 mt ww) to

other countries. These transfers are 37.6 mt dw (50 mt ww) to Namibia, 18.8 mt dw (25 mt ww) to Côte d'Ivoire, and 18.8 mt dw (25 mt ww) to Belize.

Since 2014, the annual U.S. adjusted South Atlantic swordfish quota has been 75.1 mt dw due to 0.1 mt dw of landings in 2013. Since the United States is allocated 75.2 mt dw of South Atlantic swordfish quota each year and 75.2 mt dw of South Atlantic swordfish quota is transferred to other countries each year, underharvest of the previous year largely drives the U.S. adjusted quota total for the stock. Since there was 0.1 mt of South Atlantic swordfish landed in 2013, there was only 75.1 mt dw of underharvest available for 2014 resulting in an adjusted quota of 75.1 mt dw for the 2014 fishing year. Similarly, subsequent years only had 75.1 mt dw of underharvest available each year to transfer to the next, resulting in a 75.1-mt dw adjusted quota each year through 2021. To fix this minor accounting issue, the United States reduced its quota transfer to Belize in 2022 by 0.1 mt dw, as reflected in the 2021 ICCAT compliance tables endorsed by the Commission at the 2021 Annual Meeting.

U.S. fishermen landed no South Atlantic swordfish in 2021. The United States had 75.1 mt dw of quota available for accounting in 2021. Therefore, 75.1 mt dw of underharvest is available to carry over to 2022. NMFS is carrying forward 75.1 mt dw to be added to the 75.2-mt dw baseline quota. The quota is then reduced by the 75.1 mt dw of annual international quota transfers outlined above, including the minor reduction in the quota transfer to Belize for 2022, resulting in an adjusted South Atlantic swordfish quota of 75.2 mt dw for the 2022 fishing year (Table 1).

**Table 1 -- 2022 North and South Atlantic Swordfish Quotas**

<b>North Atlantic Swordfish Quota (mt dw)</b>	<b>2021</b>	<b>2022</b>
Baseline Quota	2,937.6	2,937.6
International Quota Transfer	0	0
Total Underharvest from Previous Year	2,278.12	2,416.4
Underharvest Carryover from Previous Year <sup>†</sup>	(+) 440.6	(+) 440.6
Adjusted Quota	3,378.2	3,378.2

Quota Allocation	Directed Category	3,028.2	3,028.2
	Incidental Category	300	300
	Reserve Category	50	50
<b>South Atlantic Swordfish Quota (mt dw)</b>		<b>2021</b>	<b>2022</b>
Baseline Quota		75.2	75.2
International Quota Transfers*		(-)75.2	(-)75.1
Total Underharvest from Previous Year		75.1	75.1
Underharvest Carryover from Previous Year <sup>†</sup>		75.1	75.1
Adjusted quota		75.1	75.2

<sup>†</sup> Allowable underharvest carryover is capped at 15 percent of the baseline quota allocation for the North Atlantic and 75.2 dw (100 mt ww) for the South Atlantic.

\* Under ICCAT Recommendations 17-03 and 21-03, the United States transfers 75.2 mt dw (100 mt ww) annually to Namibia (37.6 mt dw, 50 mt ww), Côte d'Ivoire (18.8 mt dw, 25 mt ww), and Belize (18.8 mt dw, 25 mt ww). As detailed in the *South Atlantic Swordfish Annual Quota and Adjustment Process* section, the United States transferred 18.7 mt dw (24.94 mt ww) to Belize for 2022, resulting in total international quota transfers of 75.1 mt dw (99.94 mt ww).

## Classification

NMFS is issuing this rule pursuant to 305(d) of the Magnuson-Stevens Act. The NMFS Assistant Administrator (AA) has determined that this final rule is consistent with the 2006 Consolidated Atlantic HMS FMP and amendments, the Magnuson-Stevens Act, ATCA, and other applicable law.

Pursuant to section 553(b)(B) of the Administrative Procedure Act (5 U.S.C. 553(b)(B)), the AA finds that it is unnecessary and would be contrary to the public interest to provide prior notice of, and an opportunity for public comment on, this action for the reasons described below.

The rulemaking process for the 2016 North and South Atlantic Swordfish Quota Adjustment Rule (81 FR 48719, July 26, 2016) specifically provided prior notice of, and accepted public comment on, the formulaic quota adjustment processes for the swordfish fisheries and the manner in which they occur. These processes have not changed, and the application of these formulas in this action does not have discretionary aspects requiring additional agency consideration. Thus, it would be redundant to provide an opportunity for public comment on this action. There are no new quotas for 2022, and the quota formulas are the same as in previous years. NMFS therefore is issuing this temporary

final rule to adjust the North and South Atlantic swordfish quotas for 2022 without prior notice and an additional opportunity for comment. Actions to adjust the swordfish quotas based on the previous year's underharvest occur annually and the affected community expects similar adjustments in 2022. This action to adjust the 2022 quotas could not occur earlier in the year because preliminary 2021 landings data were not available until recently.

This action is exempt from review under Executive Order 12866.

This action does not contain a collection-of-information requirement for purposes of the Paperwork Reduction Act.

Because prior notice and opportunity for public comment are not required for this rule by 5 U.S.C. 553, or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, are inapplicable.

**Authority:** 16 U.S.C. 971 *et seq.* and 1801 *et seq.*

Dated: July 12, 2022.

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Kimberly Damon-Randall,

Acting Deputy Assistant Administrator for Regulatory Programs,

National Marine Fisheries Service.